



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

FOR IMMEDIATE RELEASE: March 23, 2006

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CITY ATTORNEY FILES LAWSUIT AGAINST FORMER LEGAL COUNSEL TO CITY'S RETIREMENT BOARD ALLEGING A VIOLATION OF STATE CONFLICT OF INTEREST LAW

*Civil Action Seeks to Undo a 1998 Memorandum of Understanding which
Created Retirement Board's Legal Department*

San Diego, CA: The City Attorney's Office filed a lawsuit against Loraine E. Chapin, former General Counsel to the San Diego City Employees' Retirement System (SDCERS), alleging a violation of the State's conflict of interest laws. The complaint seeks to set aside certain agreements negotiated and drafted by Ms. Chapin that resulted in the creation of a legal department for SDCERS.

Specifically, City Attorney Michael Aguirre requests the court to declare void and to set aside a 1998 Memorandum of Understanding (MOU) between the City of San Diego and SDCERS, which allowed the SDCERS Board to create its own Legal Services Department. Prior to 1998, the City Attorney was the Chief Legal Advisor to SDCERS as mandated by the San Diego City Charter.

The complaint, filed late Tuesday afternoon, contends that at the time Ms. Chapin drafted the MOU she worked for the City as a Deputy City Attorney and had a conflict of interest because she would (and did) benefit from the creation of the new independent general counsel position. The execution of the 1998 MOU was, in Ms. Chapin's own words, a "substantial break from precedent."

"Ms. Chapin's use of her position as a Deputy City Attorney to create this position at SDCERS and to secure her appointment to that position violates State conflict-of-interest laws and renders the 1998 MOU void," said City Attorney Aguirre.

The current action is based upon State Government Code section 1090, which states that: "City officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members."

On 15 December 2004, acting under authority of the City of San Diego's Charter section 40, newly elected City Attorney Michael Aguirre rescinded the 1998 MOU by letter to the SDCERS Board Administrator. SDCERS Board refused to allow the City Attorney to resume his role as counsel for SDCERS and instead filed a lawsuit in San Diego Superior Court against the City and City Attorney asserting that the City Attorney was not authorized to act as legal counsel to SDCERS.

(MORE)

“With SDCERS refusal to comply with Charter section 40, a judicial declaration that the 1998 MOU is void will return control and oversight of the retirement system to the independent, elected City Attorney where voters determined it belongs,” said City Attorney Aguirre.

On January 6, a federal grand jury returned criminal indictments against Ms. Chapin, SDCERS’ Administrator Lawrence Grissom, and three former trustees including firefighter union president Ron Saathoff. They were charged with multiple felonies, including conspiracy, wire and mail fraud and aiding and abetting. The indictment said the defendants conspired to illegally obtain enhanced retirement benefits for themselves in exchange for allowing the financially strapped City to under fund the pension system.

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